



ADVOCATES for the **West**
P.O. Box 1612 | Boise, ID 83701

CS

May 4, 2016

Via Certified Mail, Return Receipt Requested

Twin Falls City Council
Att'n: Mayor Shawn Barigar
City Council Chambers
305 Third Ave. E.
Twin Falls, ID 83301

Jon Caton
Public Works Director
City of Twin Falls
321 Second Ave. E.
Twin Falls, ID 83301

**Re: Notice of Intent to Sue the City of Twin Falls Over Violations
of Clean Water Act NPDES Permit No. ID-002127-0**

Dear City Council & Mr. Caton:

I write on behalf of my client, the Idaho Conservation League ("ICL"), to give notice of ICL's intent to initiate a suit against you and the City of Twin Falls (collectively hereinafter "City") to enforce provisions of the Federal Water Pollution Control Act ("Clean Water Act" or "CWA"), 33 U.S.C. §§ 1311, 1342. The City's Wastewater Treatment Plant at Canyon Springs Road is covered by National Pollutant Discharge Elimination System ("NPDES") permit number ID-002127-0 ("Permit"). The Permit sets specific requirements that the City must follow to ensure the protection of the Snake River. As set forth below, the City has violated and continues to violate the effluent limitations of the Permit.

ICL sends this letter pursuant to Section 505 of the Clean Water Act, 33 U.S.C. § 1365, which requires providing notice 60 days before filing a citizen suit in federal court to enforce the CWA. Unless the City takes the steps necessary to remedy its ongoing violations of the Permit, ICL intends to file suit in U.S. District Court following the expiration of the 60-day notice period to seek injunctive relief and civil penalties for the violations enumerated below and for any additional similar violations identified subsequently.

Party Giving Notice

The name, address, and telephone number of the party providing this notice is:

Idaho Conservation League
Att'n: Justin Hayes
P.O. Box 844
Boise, ID 833701
208.345.6933

ICL's Commitment to Improving Water Quality in the Magic Valley

Since 1973, the Idaho Conservation League has been Idaho's voice for clean water, clean air, and wilderness—values that are the foundation for Idaho's extraordinary quality of life. ICL works to protect these values through public education, outreach, advocacy, and policy development. As Idaho's largest state-based conservation organization, ICL represents over 20,000 supporters, many of whom have a deep personal interest in protecting and restoring water quality in the Magic Valley and throughout the Snake River watershed.

ICL has members and supporters who live, recreate, and work in and around the Magic Valley and the mid-Snake River, including near and downstream of the City's Wastewater Treatment Plant. ICL staff, members, and supporters frequently visit, recreate, and engage in activities in the area of the Plant's discharge and in areas downstream which are impacted by this discharge.

The City's NPDES Permit

The City was issued a modified Permit effective November 1, 2009, by the U.S. Environmental Protection Agency ("EPA"). Among other requirements, the Permit places effluent limitations and monitoring requirements on the City's discharges from the Wastewater Treatment Plant to the Snake River.

Specifically, the permit sets effluent limitations and monitoring requirements for 13 parameters, including: total suspended solids ("TSS"), *E. coli* bacteria, and Biochemical Oxygen Demand ("BOD"). *NPDES Permit No.: ID-0021270-0*, Table 1. For TSS, the Permit includes an average monthly limit of: 30 mg/L (sampled 4 times per week); greater than or equal to 85% removal (calculated); and 2,142 lbs/day (sampled 4 times per week). *Id.* For TSS, the Permit also includes an average weekly limit of: 45 mg/L (sampled 4 times per week); and 3,213 lbs/day (sampled 4 times per week). For *E. coli*, the Permit includes an average monthly limit of 126 colonies/100 mL (sampled 5 times per month) and a maximum daily limit of 406 colonies/100 mL (sampled 5 times per month). *Id.* For BOD, the Permit includes an average monthly limit of: 30 mg/L (sampled 4 times per week); 85% removal (calculated); and 2,142 lbs/day. *Id.* For BOD, the Permit also includes an average weekly limit: 45 mg/L; and 3,213 lbs/day. *Id.*

The City must submit Discharge Monitoring Reports (“DMRs”) to EPA, stating the results of the monitoring requirements set forth in the Permit. *See NPDES Permit No.: ID-0021270-0* at II.B.1. DMRs must be submitted monthly, postmarked by the 10th of the month. *See id.*

Permit Violations

Based on the information available, the City has violated and continues to violate the Permit’s effluent limitations for TSS, *E. coli*, and BOD from the month of August 2014 to the present, as set forth in the table below. During this period, the City reported: 7 exceedances of its TSS effluent limits; 3 exceedances of its *E. coli* effluent limits 3; and 1 exceedance of its BOD effluent limits.

Table: Summary of effluent limitation exceedances stated in the City’s DMRs from the month of August 2014 to January 2016.

City of Twin Falls DMR	# of Reported Exceedances by Parameter		
	TSS	<i>E. coli</i>	BOD
08/1/2015 - 08/31/2015	2		
02/1/2015 - 02/28/2015	1		
12/1/2014 - 12/31/2014	3	1	1
11/1/2014 - 11/30/2014		1	
08/1/2014 - 08/31/2014	1	1	
Total	7	3	1

Penalties and Injunctive Relief

The City of Twin Falls is in violation of its Permit and the Clean Water Act. Section 309 of the CWA, 33 U.S.C. § 1319(d), adjusted by 40 C.F.R. § 19.4, provides for penalties of up to \$37,500.00 per day per violation. ICL may discover further violations.

ICL anticipates filing suit 60 days from the date of this notice in Federal District Court, requesting penalties and injunctive relief, if the City has not yet taken appropriate remedial action to halt these ongoing violations of the Permit and limit its discharges of TSS, *E. coli*, and BOD to the Snake River. Should the City have any facts, documents or other information which you believe might bear upon the alleged violations set forth in this letter, please provide those to us now in order to avoid unnecessary litigation.

In addition, one of the principal purposes of the notice requirement in the Clean Water Act is to allow the parties to discuss resolution of claims short of litigation. ICL sends this notice letter, in part, to encourage settlement negotiations which could avoid the need for litigation. During the 60-day notice period, ICL will be available to discuss alternative remedies and actions that might be taken to assure compliance in the future with the CWA. If you wish to discuss any aspect of this notice or settlement, please contact Justin Hayes at ICL or me (contacts below).

Sincerely,



Bryan Hurlbutt
ADVOCATES FOR THE WEST
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Boise, ID 83701
208.342.7024 x206

Attorney for ICL

Cc via certified mail:

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